

1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF OKLAHOMA
 3
 4

5 W. A. DREW EDMONDSON, in his)
 6 capacity as ATTORNEY GENERAL)
 7 OF THE STATE OF OKLAHOMA and)
 8 OKLAHOMA SECRETARY OF THE)
 9 ENVIRONMENT C. MILES TOLBERT,)
 10 in his capacity as the)
 11 TRUSTEE FOR NATURAL RESOURCES)
 12 FOR THE STATE OF OKLAHOMA,)

13 Plaintiff,)

14 vs.)

4:05-CV-00329-TCK-SAJ

15 TYSON FOODS, INC., et al,)

16 Defendants.)

17 - - - - -
 18 THE VIDEOTAPED DEPOSITION OF
 19 CHARLIE DELAP, produced as a witness on behalf of
 20 the Plaintiff in the above styled and numbered
 21 cause, taken on the 22nd day of August, 2008, in the
 22 City of West Siloam Springs, County of Delaware,
 23 State of Oklahoma, before me, Lisa A. Steinmeyer, a
 24 Certified Shorthand Reporter, duly certified under
 25 and by virtue of the laws of the State of Oklahoma.

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EXHIBIT

17

1 Q Okay. When Cargill would clean out a breeder
2 farm, and we'll talk about this in more detail, but
3 briefly did the clean-out crew have responsibility
4 for spreading also or was that a different crew?

5 A Well, it's been -- again, this whole thing 09:46AM
6 evolved over from the time I initially became
7 breeder manager until the point in time when I left,
8 so Cargill -- at one point in time initially, we
9 contracted a crew to come in and with their own
10 equipment to actually clean out the turkey 09:46AM
11 facilities and spread the litter. Then I guess
12 three years ago whenever the decision was made that
13 no -- that the litter wasn't going to be spread on
14 Cargill property or any adjoining property around,
15 it was going to be hauled out of the watershed, then 09:46AM
16 we -- Cargill then bought the necessary equipment to
17 begin loading these big 53-foot semis. So at that
18 period of time then Cargill employees assumed the
19 responsibility of cleaning out.

20 Q Okay. We'll come back to that and talk in 09:47AM
21 more detail but I wanted to kind of get a broad
22 picture.

23 A Yeah.

24 Q This lawsuit has been going on for several
25 years, three years roughly. Have you ever been 09:47AM

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1 every flock. Did that happen the whole time it was
2 Ag Forte? I don't know. Did it happen prior to Ag
3 Forte? Yeah, but I just -- I know that when Cargill
4 came back, took their assets back from Ag Forte,
5 that it then became policy that we cleaned out
6 between every flock.

10:05AM

7 Q Okay. After the clean-outs, was the -- up
8 until the decision change in '05, up until that
9 time, whenever a clean-out occurred, was it always
10 spread upon the land around the breeder facilities,
11 breeder farms?

10:05AM

12 A The litter was spread in the vicinity either
13 on property Cargill owned on the immediate property
14 surrounding the breeder farms or on private
15 property. Our litter -- at that point in time prior
16 to the decision being made to haul the litter out of
17 the watershed, we were contracting with any crew
18 that we could get, several different crews over a
19 period of time to basically come in and clean out
20 the facilities. The litter was theirs. They
21 could -- if they had a market for it, they came in
22 and cleaned it out and hauled it somewhere, to some
23 farm field in the vicinity of that breeder farm, and
24 they collected the money for it. So they cleaned
25 out our facilities. It didn't cost me anything

10:05AM

10:06AM

10:06AM

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1 because I gave them the litter, but there were times
2 where they couldn't sell the litter. So at that
3 point in time, then it would be spread on Cargill
4 property.

5 Q All right. When it was spread on Cargill 10:06AM
6 property, do you know whether soil tests were taken
7 on the land before it was spread?

8 A Not all the time, but there was a nutrient
9 management plan. Soil samples were taken,
10 submitted. A nutrient management plan was 10:07AM
11 formulated at that point in time.

12 Q Was that the nutrient management plan dated in
13 March of '98 that you are referring to?

14 A Yes, sir.

15 Q Okay. There's been no nutrient management 10:07AM
16 plan update or revision since then?

17 A Not to my knowledge.

18 Q Since the soil test taken in '98 -- have there
19 been soil tests taken since those soil tests in
20 1998? 10:07AM

21 A Not to my knowledge.

22 Q Okay. Were there records kept as to where the
23 poultry waste, when cleaned out, was removed to?

24 A Not to my knowledge.

25 Q Prior to that 2005 decision when poultry waste 10:07AM

1 was spread on the land owned by Cargill, then as I
2 understand it, it was always spread by these
3 contract workers?

4 A Correct.

5 Q And they had their own spreader trucks; 10:08AM
6 Cargill didn't have spreader trucks?

7 A Correct.

8 Q All right. So I'm clear in understanding,
9 ever since you've been involved with breeder farm
10 facilities, they've always cleaned out and spread 10:08AM
11 there or on vicinities close by; is that right?

12 A Up until the period of time when we started
13 hauling it out.

14 Q Yeah, the 2005 period?

15 A Yes. 10:08AM

16 Q So in your history there, that's the way it's
17 always been done until 2005 when a change was made?

18 A Correct.

19 Q All right. Was -- if you cleaned out the
20 barns on, let's say, Farm 1, was it ever -- was 10:09AM
21 litter from those barns on Farm 1 ever like applied
22 to Farm 3 or 4, or would it be right by the facility
23 itself that was on Cargill land?

24 A Right. As far as I can remember, we never
25 hauled litter from, say, Farm 1 to either 3 or 4. 10:09AM

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